Ministry of Finance
Ontario

Retail Sales Tax Branch

Information Bulletin

Retail Sales Tax Act

Number I-93 (revised) July 1993

This Bulletin summarizes changes to the *Retail Sales Tax Act*, as well as information on other items of interest to vendors. The changes were introduced in the Ontario Budget of May 19, 1993 and take effect on the dates noted.

As a result of the Ministries of Revenue, Treasury and Economics, and Financial Institutions merging to form the Ministry of Finance, vendors and taxpayers should now make cheques payable to the *Minister of Finance*.

BULLETIN CONTENTS

TIRE TAX REMOVED

Starting May 20, 1993, the $5 tire tax on new pneumatic tires is removed.

Some vendors may be collecting tire tax on short-term rentals (periods of less than 30 days) at a separate daily rate of 15¢ or in combination with tax for fuel conservation (TFFC) or tax credit for fuel conservation (TCFFC). Although the full tire tax on a vehicle may not have been collected by May 20, 1993 using daily rates, vendors should stop collecting the tire tax for all short-term rentals made on or after May 20, 1993.

Vendors may continue to use daily rates when collecting TFFC or TCFFC on daily rentals made on or after May 20, 1993.

For example:

$100 TCFFC	$0.53 cr.
$ 75 TFFC	$0.40
$250 TFFC	$1.30

If vendors have collected any tire tax on sales or rentals made on or after May 20, 1993, they may refund the tax to the buyer or renter and deduct the amount refunded from future remittances of other RST collected.

TAX ON INSURANCE PREMIUMS

For the purposes of the *Retail Sales Tax Act*, group insurance means a policy of insurance that covers, under a master policy, the participants of a specified group or of a specified group and other persons.

Starting May 20, 1993:

- insurers, agents or brokers (who collect insurance premiums directly from policy holders)
- persons who collect payments into insurance schemes or compensation funds under a federal or provincial Act
- administrators or trustees of funded or unfunded benefits plans
- those who self-administer funded or unfunded benefits plans, and
- holders of group insurance (persons to whom charges are paid under a group insurance plan),

must be registered as vendors with the Retail Sales Tax Branch to charge, collect and remit Ontario retail sales tax (RST) on insurance premiums. Vendors who are not already registered on May 20, 1993 have until July 31, 1993 to do so.

Exempt Premiums

RST does **not** apply to premiums for:

- reinsurance contracts
- insurance on agricultural property (including insurance on household property but excluding automobile insurance)
- life, accident, sickness or disability insurance bought by individuals or for individuals (includes life insurance bought by corporations on key personnel but not group insurance)
- commercial marine insurance bought by persons who are exempt from tax under paragraphs 7(1)29, 30 and 61 of the *Retail Sales Tax Act*
- insurance on aircraft bought tax-exempt under paragraph 7(1)22 of the *Retail Sales Tax Act*
- insurance bought by status Indians or Indian bands on their goods or real property located on a reserve
- group insurance premiums paid by a status Indian ordinarily living on a reserve
- payments under annuity contracts
- an amount payable to obtain a surety
- service, maintenance or warranty contracts on goods (which remain taxable services)
- insurance contracts on employees working outside Ontario or who are normally paid outside Ontario
- insurance on individuals who do not ordinarily live in Ontario or for a risk occurring wholly outside Ontario.

RST also does not apply to premiums, assessments or contributions paid under the:

- ***Canada Pension Plan***
- ***Crop Insurance Act*** (Ontario)
- ***Unemployment Insurance Act*** (Canada)
- ***Workers' Compensation Act.***

Taxable Premiums

Taxable premiums include amounts paid:

- for group insurance
- to insurers, agents or brokers for insurance
- to the holder of group insurance
- by members of funded and unfunded benefits plans
- for funded benefits plans: any amount paid into a plan by a planholder, less any amount paid to the planholder by members
- for unfunded benefits plans: any amount paid by a planholder by reason of the occurrence of a risk (not including any amount that must be included as income from office or employment under the *Income Tax Act* (Canada)), less amounts paid to the planholder by members
- as a contribution to an insurance scheme or a compensation fund established by Federal or Provincial law.

RST on premiums will be paid by:

- Ontario residents, and persons who carry on business in Ontario
- those who are neither resident nor carry on business in Ontario, but who:

  1. take out insurance on residents in Ontario, or on real property or personal property (including motor vehicles) normally located in Ontario
  2. insure a risk in Ontario
  3. create a funded or unfunded benefits plan whose members work or ordinarily reside in Ontario.

Persons carrying on business both in Ontario and elsewhere will pay RST on the part of a premium that applies to risk in Ontario. If an insurance contract states the portion of risk in Ontario, RST applies to that portion.

If the contract does not, premiums may be apportioned based on allocation rules (e.g. business carried on in Ontario to the total business or the kilometres travelled within Ontario to the total kilometres travelled). Detailed regulations with respect to allocation of risk to Ontario policies will be determined after consultation with the insurance industry.

Rates

RST is to be charged as follows:

- 8 per cent - Premiums for all insurance contracts (other than automobile insurance), for funded or unfunded benefits plans and for payments made into insurance schemes or compensation funds established by statute.
- 5 per cent - Premiums for automobile insurance contracts on vehicles required to be registered under the ***Highway Traffic Act*** to drive on a highway.

Any dues, assessments or administrative fees paid to administer or service any contract or plan, are to be included in taxable premiums. However, financing fees, such as those charged for the privilege of paying insurance premiums monthly, rather than paying in full at the time the contract of insurance is entered into or renewed, are not taxable. Any such fees must be shown separately from taxable charges.

Transitional Rules

RST collected before a vendor is registered must be deposited into a trust account and held in trust until the vendor has been registered under the ***Retail Sales Tax Act***.

Premiums paid on or before June 30, 1993 for the following contracts and plans are tax-exempt:

- insurance contracts entered into before May 20, 1993, if they continue in effect on or after that date with no substantial changes to their terms and conditions
- insurance contracts entered into before May 20, 1993, with an expiry date on or before June 30, 1993, that are renewed with no substantial changes to their terms and conditions
- group insurance contracts, funded benefits plans and unfunded benefits plans entered into before May 20, 1993, which continue in effect with no substantial changes in their terms and conditions
- payments into insurance schemes or compensation funds made before July 1, 1993.

Premiums paid for renewals of insurance or group insurance contracts and funded or unfunded benefits plans are taxable if they contain substantial changes to their terms and conditions and the renewal comes into effect on or after May 20, 1993.

Insurance premiums paid on or after May 20, 1993 for insurance contracts coming into force on or after July 1, 1993 are also taxable even if there are no substantial changes to the contract.

Examples of changes to insurance contracts that would be considered substantial include:

- an increase or decrease of at least 10% in premium
- accelerated payment terms, unless they were specifically provided for in the original contract.

PRODUCE-YOUR-OWN BEER & WINE ESTABLISHMENTS

Starting August 1, 1993, vendors who provide the equipment and premises to make beer or wine for home consumption must be registered to charge, collect and remit RST on the quantities produced by their customers. In line with other charges on alcohol, RST will be charged and collected for products produced on the vendors' premises and delivered to their customers as follows:

(a) August 1, 1993 to June 14, 1994 - 26¢ per litre of beer or wine delivered.
(b) June 15, 1994 to June 14, 1995 - 31¢ per litre of beer or wine delivered.
(c) on or after June 15, 1995 - 38¢ per litre of beer or wine delivered.

Vendors who are not already registered with the Retail Sales Tax Branch may do so by contacting the Retail Sales Tax Offices listed in the blue pages of the telephone directory.

NEW TAXABLE SERVICE – PARKING FEES

Starting July 1, 1993, all charges (excluding the GST) to park a motor vehicle or have a motor vehicle parked in a commercial parking space will be taxable. A "commercial parking space" means any property, including a street or highway, used to park motor vehicles and for which a fee is charged.

Taxable charges are usually for a fixed period (e.g. hourly, daily, weekly, monthly). Payments may be made:

- by putting coins or tokens into a meter or other device
- to an attendant, at the time of parking or when leaving a parking lot
- through direct billings or by payroll deductions.

Vendors who operate parking meters or other devices requiring exact change may use tax-included pricing. Other vendors who charge for parking have the option of using tax-extra pricing or may use tax-included pricing instead of showing the tax as a separate item on their bills. The method chosen must be used consistently.

Vendors using tax-included methods must post a notice in a visible place that the parking charge includes provincial sales tax.

For tax-included pricing, RST is to be calculated and remitted as follows:

- GST included in parking charges - 8/115 x total collections
- GST not included in parking charges - 8/108 x total collections

Vendors not using tax-included pricing when collecting parking charges must show separately on cash register tapes or other billings the amount of RST collected on each parking charge.

Tax is not charged on:

- parking fees included in rents paid by residential tenants
- amounts paid by owners or buyers of residential condominium units or cooperative apartments to park at their residence
- charges by municipalities for permits issued to residential tenants or owners of residential property to park on residential streets (charges for permits issued to tenants or owners of commercial property are taxable).

Vendors who are not already registered with the Retail Sales Tax Branch may do so by contacting one of the Retail Sales Tax Offices listed in the blue pages of the telephone directory.

SOIL, CLAY, SAND, GRAVEL AND UNFINISHED STONE - EXEMPTION REMOVED

Starting July 1, 1993, the exemption for soil, clay, sand, gravel and unfinished stone is removed. Sales of these items in any quantity, including charges for delivery to a customer's site, are taxable.

Producers whose **sales** of soil, clay, sand, gravel or unfinished stone total more than $5,000 in a fiscal year are eligible for an RST exemption for certain machinery, equipment and consumables used in the production of their products. Licensed vehicles have been specifically excluded from the exemption. The exemption is also available to producers who use their products in carrying out construction or real property contracts if the **produced cost** of the products is more than $50,000 in a fiscal year.

The RST exemption for machinery, equipment and consumables applies to items bought for use at quarries or similar locations owned by a producer away from construction sites. If these products are produced as a result of the construction process (e.g. shot rock used in road building) or anywhere else on the job site, RST must be paid on the equipment.

Sand, gravel or unfinished stone may be produced at quarries owned by construction contractors for use directly in construction contracts. If a contractor does not produce $50,000 worth of product in a fiscal year, the contractor would not get an exemption for the production equipment. The contractor would have to account for RST on the cost of the sand or gravel used in the construction contract since these items are now taxable.

Buyers of sand, gravel or unfinished stone who use these items in the manufacture or production of goods (e.g. concrete mixes) for resale or own use ($50,000 in a fiscal year) may buy them exempt from tax. A properly completed purchase exemption certificate must be given to the supplier.

REFUNDS – VISITORS TO ONTARIO

Starting July 1, 1993, the RST Refund Program for Visitors to Ontario (formerly Ontario Incredible) is discontinued.

For transient accommodation and goods bought before July 1, 1993, visitors have one year from the date of purchase to make a claim and each claim must total $7.00 or more. Visitors have up to 60 days in which to remove goods from the province. If visitors are from another Canadian province, tax must be paid to their home province before making a claim.

Goods mailed or shipped by vendors to addresses outside Ontario continue to be exempt.

SERVICE, MAINTENANCE OR WARRANTY CONTRACTS – REPLACEMENT PARTS AND REPAIR LABOUR

Starting May 20, 1993, the exemption for replacement parts and labour, used to repair taxable goods under extended maintenance or warranty contracts or a manufacturer's warranty, is removed. Repairers must charge RST when billing for parts or labour required to do warranty repairs on or after May 20, 1993 (including repairs under warranty contracts entered into prior to that date).

If a warrantor itself performs repairs, it must pay or account for RST on the cost of the parts used, but not repair labour.

Repairers of real property or fixtures attached to realty (e.g. furnaces), including repairs done under a warranty contract, are required to pay tax on their cost of parts used to do the repairs. Labour to do this work remains exempt. Repairers must not charge RST when billing anyone for repairs to real property or fixtures.

Buyers of extended warranty contracts for the service or maintenance of taxable goods will continue to pay RST when buying these contracts.

REFUNDS – GOODS SHIPPED OUTSIDE ONTARIO

Persons centrally buying goods in Ontario (e.g. advertising material, office stationery and supplies, plastic credit cards, prospectuses, etc.) may ship them for use outside the province.

Vendors who are "G" permit holders may buy goods in Ontario tax-exempt. RST will be paid on any goods used in Ontario. Persons who are not "G" permit holders must pay RST when goods are bought. They may claim a refund of the RST after the goods have been shipped outside Ontario.

Starting July 1, 1993:

- "G" permit holders must account for RST on goods shipped to another Canadian province or territory unless the other jurisdiction's applicable sales taxes are paid (proof of payment to the other province must be kept to show during a retail sales tax audit)
- persons who are not "G" permit holders cannot claim a RST refund for goods shipped to another Canadian province or territory unless they pay the other jurisdictions's sales tax before they claim a refund and provide proof of payment with the claim.

These conditions will not apply if the province or territory to which the goods are shipped does not charge a sales tax.

REFUNDS – GOODS REMOVED FROM ONTARIO

The Ontario government recognizes that some high value goods are not ordinarily shipped out of province by the vendor but are removed by the buyer (e.g. motor vehicles). The budget provides relief from possible double taxation on such goods when the goods are bought for permanent use outside Ontario.

Starting July 1, 1993, buyers may claim a refund of RST on these goods under the following rules:

- the goods must be removed within 30 days of being bought
- refund claims must be made within four years of buying the goods
- RST paid on ***each*** invoice must be $50 or more, and
- for residents of other Canadian provinces, any applicable sales tax on the goods must be paid to their home province and proof of payment sent with the refund claim.

REFUNDS – BAD DEBTS

Currently, vendors who write off accounts receivable as bad debts may claim a refund of any RST included in the amounts written off.

Starting July 1, 1993, the following changes will be made to this refund program:

1. Vendors will no longer be required to complete a refund application form to make a claim. The amount of RST written off may be deducted from the RST collected and reported on line 2 of a vendor's tax return. Any amounts deducted will be verified when the Retail Sales Tax Branch audits the books and records of a vendor.

2. Vendors will be allowed to claim a refund of RST included in payments made by cheque where the cheque is returned NSF. The cheque must be for a sale made on or after July 1, 1993 and must be written off as uncollectible by the vendor in its books of account.

3. Vendors or third parties will no longer be allowed to claim a refund of RST if a vendor assigns, transfers or sells accounts receivable to a third party, whether or not the third party is related to the vendor.

   This rule does not apply, however, to the extent that the third party can charge back to the vendor any amounts that are not collectible. The vendor may then claim a refund for any RST included in the charge-back after the amount charged back is written off as uncollectible by the vendor in its books of account.

4. Vendors will have four years from the end of the fiscal year in which the bad debts are written off its books of account to make the necessary adjustments to their liability account and tax returns.

5. Vendors must send in a proportionate amount of RST included in any amounts recovered from goods repossessed and sold.

6. The condition limiting claims to any tax charged within 180 days from the date of the last sale to a customer will be removed.

7. No bad debt claim is permitted in respect of a non–arm's length sale.

ASSESSMENTS, PENALTIES AND INTEREST

Assessments

Starting the date the Budget Bill receives Royal Assent, vendors and taxpayers who are assessed taxes and penalties under the ***Retail Sales Tax Act*** will no longer have 30 days in which to make payment. All assessments become due on the date an assessment is raised.

Penalties, Fines and Fees

The following changes to the penalties, fines and fees imposed under the ***Retail Sales Tax Act*** come into effect on the date the Budget Bill receives Royal Assent:

Existing Penalties and Fines:

- ***fine for making false or deceptive statements*** – on conviction, an amount of not less than $500 and not more than double the RST payable or imprisonment for not more than two years, or both.

New Penalties and Fees:

- ***returned cheques*** - vendors and taxpayers who issue cheques that are returned by their bank will be charged a fee of $35.
- ***penalty for failure by a manufacturer to file a return or to remit RST with a return*** – goods manufactured for own use exceeding $50,000 in a fiscal year – 10% of the RST that should have been reported on line 3 of the manufacturer's retail sales tax return to a maximum of $1,000 per return.

Interest

The following changes to the interest provisions of the ***Retail Sales Tax Act*** come into effect on the date the Budget Bill receives Royal Assent:

- ***Penalty Assessments*** – Interest on penalty assessments under the ***Retail Sales Tax Act*** will be calculated from the date when the default first occurred rather than from the date an assessment is raised.
- ***Refunds*** – Where interest is paid on refunds, the calculation of interest will start from the 21st day after a refund claim is filed with the Ministry of Finance, rather than from the date when the tax to be refunded was paid.

NOTICES OF OBJECTION OR APPEAL

From time to time, vendors or taxpayers may be assessed by the Retail Sales Tax Branch for tax not paid, tax collected but not remitted, or a penalty for not collecting tax.

Although vendors and taxpayers have the right to appeal these assessments to the Tax Appeals Branch of the Ministry, they must make suitable arrangements with the Collections Branch to pay an assessment while their cases are being heard. Efforts by the Collections Branch to collect an assessment are independent of the Tax Appeals Branch review and will not delay the review process.

Vendors and taxpayers who successfully appeal will be paid interest on any amounts paid on an assessment, from the date payment or payments were made. The amount refunded, including interest, will first go to reducing other tax liabilities owed to Ontario before any refund is made to the vendor or taxpayer.

This Bulletin is to be used as a guideline only. If you require additional copies or further information on any of the topics, please contact the local Retail Sales Tax Office listed in the blue pages of your telephone directory.

Cette publication est aussi disponible en Français. Pour obtenir une copie, appelez 1-800-668-5821.

ISSN 0226-3025 370,000